

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1259 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

D K PATEL

Versus

DISTRICT EDUCATION OFFICER,

Appearance:

MR DR BHATT for Petitioner

MR RJ OZA for Respondent No. 1

MS SIDDHI TALATI FOR RESPONDENTS NOS.2 AND 3

CORAM : MR.JUSTICE C.K.THAKKAR

Date of decision: 06/04/2000

ORAL JUDGEMENT

This petition is filed by the petitioner for an appropriate writ, order or direction to the respondent authorities to implement the instructions issued by the District Education Officer, Banakantha, Palanpur, respondent No.1 and to take consequential action granting

benefit of higher secondary allowance to the petitioner.

The case of the petitioner was that she was appointed as an Assistant Teacher in Government Secondary Kanya Vidyalaya, Palanpur on 1st September, 1981. She had obtained degree of B.A. B.Ed in the principal subject of Hindi. She was given subject of Hindi and Gujarati for teaching in Standards VIII to X in the school. She was also assigned the subject of Hindi in Standards XI and XII with effect from 1st January, 1982 due to transfer of one Maghabhai who was teaching Hindi in Standards XI and XII. It was stated by the petitioner that she was assigned the above subject by the then Principal Padmaben Patwa as no other teacher in Hindi subject was available. According to the petitioner, she was discharging duties satisfactorily which was proved from the results of Board examinations. In 1987, however, to her shock and surprise, one Vajabhai Solanki was allotted periods in Hindi by the in-charge Principal ignoring the legitimate claim of the petitioner. She, therefore, made various representations but the representation made to the Principal was not even forwarded by the Principal and she was informed that she could not be appointed as a regular teacher in Hindi in view of her qualifications.

The grievance of the petitioner, however, was not against her appointment as a regular teacher in the subject but the work of teaching in Hindi in Standards XI and XII which she was doing since 1981 was not allowed to be continued. That was illegal and contrary to law. The first respondent was convinced about the legitimate claim of the petitioner and vide a letter dated 13th September, 1988 (Annexure 'A'), he informed the Principal that the action taken by the Principal was not proper and that the petitioner must be given ten periods in Standards XI and XII. But the said direction was not complied with and hence, the petitioner has approached this Court.

I have heard Mr. Bhatt for the petitioner and Ms Siddhi Talati for the authorities.

Mr. Bhatt submitted that the respondent authorities have misdirected themselves in not properly understanding and in ignoring the prayer of the petitioner. He submitted that even in the petition, the petitioner has not made a prayer that she should be regularly appointed as teacher and treated as eligible in the subject of Hindi in Standards XI and XII. Her limited prayer was that when she was teaching Hindi by taking additional lectures in Standards XI and XII and it was done by her since about 6-7 years, there was no earthly reason to deprive her of

the said work. She was getting additional allowance for the work. The affidavit in reply which is filed on behalf of respondent No.2 proceeds on the basis as if the request was to consider her eligible in the subject of Hindi on regular basis .

As that was not the prayer made in the petition, in my opinion, the grievance of the petitioner is well founded and must be upheld. When the petitioner was taking lectures in the subject of Hindi since last 6-7 years and as per the policy decision of the State Government dated 22nd February, 1983 (Annexure 'L') and dated 25th February, 1988 (Annexure 'M') and when the communication was addressed by the DEO , on 13th September, 1988, to the Principal of the school (Annexure 'A'), the petition deserves to be allowed and is accordingly allowed by granting prayer made in the petition . Rule is made absolute. No order as to costs. Consequential action will be taken by the authorities as expeditiously as possible, as the prayer was made before more than a decade and is limited to additional lectures for which allowance is Rs.50/75 was granted. Direct service permitted.

parekh